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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,805	03/12/2004	Theodore D. Jones	HE1.001	8372

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Timothy E Siegel Patent Law, PLLC
601 108th Avenue, Suite 1900
Bellevue, WA 98004

EXAMINER

SUTTON, ANDREW W

ART UNIT	PAPER NUMBER
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3765

MAIL DATE	DELIVERY MODE
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01/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/799,805		JONES, THEODORE D.	
	Examiner		Art Unit	
	Rodney M. Lindsey		3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/28/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Cecala et al. Note headgear 1, 3 and illumination assembly mounted on 3 including mounting assembly 15 having base 21 and rotatable portion 23 rotatable about the axis at 19 and illumination source 9 angle adjusted without the need to loosen any retaining element.

3. Claims 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Thayer. With respect to claim 13 note the provided rotatable illumination source assembly 15 having base 25 adhered to the helmet 11. With respect to claim 14 note the use of an adhesive element or cement (see column 3, line 26). With respect to claim 15 note the conforming of the adhesive element to the helmet 11 as shown in Figure 2.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cecala et al. in view of Mickey '293. With respect to claims 1 and 6 Cecala et al. show a headgear

assembly comprising a headgear 1, 3 and an illumination assembly including a mounting assembly having a base 21 and a rotatable portion 23 rotatable about the axis at 19, and an illumination source 9. Cecala et al. do not teach the illumination source having a mass of less than 60 grams (2.12 ounces) or less than 40 grams (1.41 ounces). Mickey '293 teaches that the use of an illumination source having a mass of one-half ounce or less than 2.12 ounces is old in headgear environments (see column 5, lines 65-67). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the illumination source 9 of Cecala et al. such that it has a mass of one-half ounce as taught by Mickey to achieve the advantage of effecting a lightweight headgear assembly thus minimizing user fatigue. With respect to claim 2 note the safety helmets as taught by Cecala et al. (see column 1, lines 32-35). With respect to claim 3 note the teaching of a firefighter's helmet in Cecala et al. (see column 1, line 33). With respect to claim 4 note the visor 3 with the illumination assembly mounted thereon of Cecala et al.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cecala et al. in view of Mickey '293 as applied to claim 1 above, and further in view of Lenart. Cecala et al. do not teach the combination of a base and a rotatable portion defining an axis of rotation and the illumination source and rotatable portion defining a different axis of rotation. Lenart teaches that it is old to have a base 24 and rotatable portion 26 define an axis of rotation and the an illumination source 22 and rotatable portion 26 define a different axis of rotation. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the headgear assembly of Cecala et al. by providing it the axes of rotation Lenart to achieve the advantage of enhancing the adjustability and directing of the illumination source.

7. Claims 7-10, 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cecala et al. in view of Caplan et al. With respect to claims 7, 12 and 16 Cecala et al. show a headgear 1, 3 and an illumination assembly 9, 13 mounted on the headgear 1, 3, the assembly having a base 21, a rotatable portion 23 rotatable about the axis at 19, and an illumination source 9. Cecala et al. do not teach the illumination source having a length or protrusion dimension of less than 6 cm (2.36 in) or less than 5 cm (2 in). Caplan et al. teach that it is old to provide an illumination source 20 a length dimension of less than 1.8 inches (see column 4, line 57). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the assembly of Cecala et al. such that the illumination source 9 defines a length and protrusion dimension of less than 1.8 inches in the manner of Caplan et al. to achieve the advantage of easing the use of the illumination source as taught by Caplan et al. With respect to claims 8 and 9 note the safety firefighter's helmet of Cecala et al. (see column 1, line 33). With respect to claim 10 note the visor 3 of Cecala et al.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cecala et al. in view of Caplan et al. as applied to claim 7 above, and further in view of Lenart. Cecala et al. do not teach the combination of a base and a rotatable portion defining an axis of rotation and the illumination source and rotatable portion defining a different axis of rotation. Lenart teaches that it is old to have a base 24 and rotatable portion 26 define an axis of rotation and the an illumination source 22 and rotatable portion 26 define a different axis of rotation. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the headgear assembly of Cecala et al. by providing it the axes of rotation Lenart to achieve the advantage of enhancing the adjustability and directing of the illumination source.

9. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cecala et al. in view of May, Jr. Cecala et al. discloses providing a rotatable illumination source assembly 9, 13 having a base 21 and attaching the base 21 to a helmet visor 3 of a safety helmet. Cecala et al. do not teach the use of a base in the form of a clip and clipping the base to a corner of the visor. May, Jr. teaches that it is old to form a base 17 in the form of a clip and clipping the base 17 to a corner 15. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Cecala et al. by substituting the base 17 of May, Jr. for the base 21 of Cecala et al. and providing the step of clipping the base to a corner of the visor to achieve the advantage of an alternative means of assembling the illumination source assembly with the helmet.

Conclusion

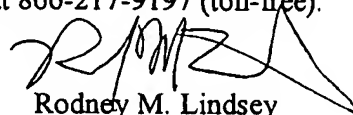
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly, the use of adhesive elements in Johnston, Herrick, Orsano and Taylor et al, the corner attachments of the visors of Aileo and Oleson, the lightweight constructions of Mickey, Hudak, Cummings et al. and Cooper, the glass mounted devices of Dugmore et al., Spears, French patent to Marin, Lessmann and Cohen, the rotational properties of the illumination devices of Lozar, Macrini, Chester and Cannone and Miserendino.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (571) 272-4989. The examiner can normally be reached on M-F (8:30-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney M. Lindsey
Primary Examiner
Art Unit 3765

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